

# **What To Do When Your Marine Commits An Offense**

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# **COMMANDER'S GOAL**

- To have Full Range of Options!

# To Increase Your Options You need the Leverage!

- As soon as possible, gather the evidence
  - Request CID / NCIS assistance.
  - Appoint an investigating officer to conduct a thorough preliminary inquiry.
- Treat the case as if you are going to a court-martial.
  - If the accused refuses NJP, you will
- Call OSJA if you have questions.

# **What to Do If Your Marine Pops + on a Drug Test**

## MPI Interrogation

- Immediately
- Do NOT advise the Marine to see DC
- Do NOT tell the Marine why

# **What to Do If Your Marine Pops + on a Drug Test**

Ask for Consent to Search room and car

- drugs
- paraphernalia

# **What to Do If Your Marine Pops + on a Drug Test**

Consider Health and Comfort  
Inspection

- Not search for evidence
- Thorough (drug dogs, urinalysis, SOP)
- Treat every room / Marine the same

# **SEARCH AND SEIZURE**

# **KNOWLEDGE IS POWER**

- IGNORANCE IS NEVER AN EXCUSE UNDER THE LAW -- AN ILLEGAL SEARCH WILL POTENTIALLY THROW A CASE OUT OF COURT.**

# **CONSEQUENCES OF AN ILLEGAL SEARCH**

- EXCLUSIONARY RULE
- "FRUITS OF THE POISONOUS TREE"



# **TYPES OF SEARCHES**

- CONSENT SEARCH
- SEARCH AUTHORIZED BY CO
- EXIGENCY SEARCH
- INCIDENT TO APPREHENSION
- SEARCH OF GOVERNMENT PROPERTY

# CONSENT SEARCH

- ALWAYS ASK FOR CONSENT
- PROBABLE CAUSE IS NOT REQUIRED
- MUST BE VOLUNTARY!!!!!!!
- CONSENT MAY BE LIMITED

# **SEARCH AUTHORIZED BY THE CO**

- POWER TO AUTHORIZE
- BASIS FOR AUTHORIZATION
- SCOPE OF THE SEARCH
- ISSUING THE AUTHORIZATION TO SEARCH
- CONDUCT OF SEARCH

# EXIGENCY SEARCH

- IMMEDIATE ACTION IS NECESSARY TO PREVENT THE REMOVAL OR DESTRUCTION OF EVIDENCE
- BASED ON PROBABLE CAUSE
- NO SEARCH AUTHORIZATION REQUIRED
- BURDEN OF PROOF--FREEZE THE SITUATION WHERE POSSIBLE

# **EXIGENCY SEARCH**

- FREEZE THE SITUATION, then
  - ASK FOR CONSENT
  - EXECUTE A SEARCH      AUTHORIZATION

# **SEARCH INCIDENT TO A LAWFUL APPREHENSION**

- MUST HAVE PROBABLE CAUSE TO APPREHEND
- SCOPE OF THE SEARCH -- "WINGSPAN"

# **SEARCHES OF GOVERNMENT PROPERTY**

- NO REASONABLE EXPECTATION OF PRIVACY IN GOVERNMENT PROPERTY
- OFFICES AND GOVERNMENT VEHICLES MAY BE LEGALLY SEARCHED WITHOUT CONSENT OR PROBABLE CAUSE
- E-MAIL??

- SEARCH: FIND EVIDENCE AND USE TO PROSECUTE
    - \*\*FOCUS IS PROSECUTORIAL / INDIVIDUAL
  - INSPECTION: FIND PROBLEMS AND CORRECT
    - \*\*FOCUS IS ON GOOD ORDER, DISCIPLINE, AND MORALE OF THE UNIT

# **INSPECTIONS**

## **(aka HEALTH AND COMFORT)**

- PURPOSE:
  - ENSURE UNIT SECURITY,
  - MILITARY FITNESS; OR
  - GOOD ORDER AND DISCIPLINE
- EXAMPLES:
  - STATE OF READINESS
  - LIVING CONDITIONS
  - SANITATION
  - PERSONNEL FIT AND READY FOR DUTY

# **INSPECTION**

- CAN'T BE A SEARCH IN DISGUISE!
- SPECIFIC INDIVIDUALS ARE SELECTED FOR EXAMINATION OR SUBJECTED TO DIFFERENT STANDARDS.
- OKAY IF THE INSPECTION WAS DIRECTED BECAUSE OF A REPORT OF A SPECIFIC OFFENSE IN THE UNIT;

# QUESTIONS ?

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